

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JESUS RODRIGUEZ,

Plaintiff,

-against-

TIMOTHY JAMES SMITH and
ABILENE MOTOR EXPRESS,

Defendants.
-----X

NOT FOR PUBLICATION
MEMORANDUM & ORDER

16-~~00~~BA) (RLM)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ AUG 10 2016 ★

BROOKLYN OFFICE

AMON, United States District Judge:

On January 8, 2016, defendants Timothy James Smith and Abilene Motor Express filed a Notice of Removal, seeking to remove plaintiff Jesus Rodriguez's personal injury action against them from New York state court. (D.E. # 1.) After reviewing the Notice of Removal, the Honorable Roanne L. Mann, Chief United States Magistrate Judge, issued an Order to Show Cause directing defendants to show cause why the case should not be remanded to state court for lack of subject-matter jurisdiction. (D.E. # 4.) After the parties responded to the Order to Show Cause, (D.E. # 5-6), plaintiff's counsel submitted a mail receipt, indicating that copies of the summons and complaint were delivered by mail on December 8, 2015, and delivered by personal service on December 10, 2015, (D.E. # 8). In light of this submission, Chief Magistrate Judge Mann then issued another Order to Show Cause directing defendants to show cause why plaintiff's motion to remand the case to state court should not be granted in light of the fact that the 30-day window for removing expired on January 8, 2016. (D.E. # 10.) After the parties responded, Chief Magistrate Judge Mann issued a Report and Recommendation ("R&R"), recommending that this Court remand the present matter to state court, reasoning that defendants did not file their Notice of

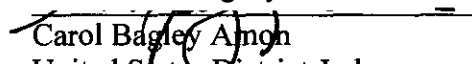
Removal until 31 days after receiving service of process, one day beyond the 30-day period authorized by 28 U.S.C. § 1446(b). (D.E. # 15.)

No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks omitted).

The Court has reviewed the R&R and the record and, finding no clear error, adopts Chief Magistrate Judge Mann’s recommendation that the motion to remand to state court be granted. The Clerk of Court is directed to close the case.

SO ORDERED.

Dated: August 9, 2016
Brooklyn, New York

s/Carol Bagley Amon

Carol Bagley Amon
United States District Judge